

REMARKS

The present amendment is responsive to the Office Action mailed in the above-referenced case on July 14, 2004. Claims 2-22, 24-34 and 36-38 are standing for examination. Claims 2-, 4-14, 22, 27 and 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Endo, et al. (U.S. Patent Number 5,764,624), herein after Endo. Claims 24-25 and 36-37 are rejected as being unpatentable over Endo, in view of Ferstenberg, et al. (U.S. Patent Number 5,873,071), hereinafter Ferstenberg. Claims 26 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Endo, in view of Gerszberg, et al. (U.S. Patent Number 6,229,810B1), hereinafter Gerszberg. Claims 3, 15-21, 28 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant has, again, carefully studied the prior art references cited and applied by the Examiner, and the Examiner's rejections and statements. In response to the Examiner's rejection of the claims, applicant herein presents strong arguments regarding the art of Endo, in particular, wherein Endo fails to teach applicant's independent claims 2 and 27. Applicant elects not to amend the claims, at this point, to accept the offered allowability by the Examiner.

Regarding claim 2, the Examiner states that Endo teaches embedding data in virtual packets for forwarding on alternative routes when failure occurs in the system (col. 9, lines 10-200). Frankly, applicant is surprised that the Examiner would attempt said rejection, when, in the last office action issued, the Examiner admitted that Endo failed to teach embedding packet data in virtual packets addressed for an alternative route. The Examiner offered the reference of Moy to teach said limitation. Applicant provided a valid argument regarding

Moy. In the present Office Action the reference of Moy is removed and the Examiner states that Endo anticipates applicant's claim 2.

Applicant argues that Endo clearly fails to teach forwarding the data packets over the alternate output route toward the destination node, by embedding the data packets in virtual packets addressed for the alternate route, as claimed. Column 9, lines 56-65 of Endo teaches that an alternative routing table 25 reads out the rerouting header information to selector 27. Selector 27 feeds the alternate output (i.e. VPI="7", the alternate output VCI="54", etc.) to the header conversion unit 22. Applicant points out that VPI, in the art of Endo is Virtual Path ID, and VCI is Virtual Connection ID.

Applicant argues that Endo stores alternate data packet header information, and achieves rerouting of data packets by converting the header information of the data packets to be transferred (see header conversion unit 22). In applicant's invention rerouting is achieved by embedding data packets into virtual data packets, forwarding the virtual data packets containing the data packets to be transferred over a virtual alternative output route, and extracting the original data packets to be transferred from the virtual data packet for forwarding to the end destination node. Applicant's invention does not convert existing headers of packets to new headers as in Endo. Applicant's invention clearly teaches and claims forwarding the data packets over the alternate output route toward the destination node, by embedding the data packets in virtual packets addressed for the alternate route. In order for the Examiner to reject this claim limitation, valid prior art must be produced teaching said feature. Endo clearly fails to teach said limitation.

Applicant's specification and claim language clearly teach and recite that when a designated connection path fails, data packets, **defined as each having their own original header as known in the art**, are inserted into virtual packets for traveling alternate paths between nodes.

Applicant believes claim 2 is clearly patentable over the art of Endo. Independent claim 27 is also patentable over Endo as argued on behalf of claim 2 above.

Applicant believes that all of the independent claims of applicant's invention, as amended and argued above by applicant are now clearly and unarguably patentable over the prior art presented by the Examiner, either singly or combined, as neither of the references presented by the Examiner disclose, suggest or intimate embedding data to be transferred into virtual packets, and extracting the data from the virtual packets for forwarding to the destination node, as is recited in applicant's independent claims as amended. Depending claims 3-26, 28-34, and 36-38 are then patentable on their own merits, or at least as depended from a patentable claim.

As all of the claims standing for examination as amended and argued above by applicant have been shown to be patentable over the art of record, applicant respectfully requests reconsideration and that the present case be passed quickly to issue. If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully Submitted,

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by _____



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